# MINUTES FOR THE COURT OF APPEAL STATE OF CALIFORNIA SECOND APPELLATE DISTRICT

## **September 24, 2009**

#### **DIVISION ONE**

B206194 People (Not for Publication)

v.

**Edwards** 

The judgment is modified to stay the imposition of sentence on all of defendant's convictions except the crime of accessory under count one and to impose as to each conviction a court security fee of \$20. In all other respects, the judgment is affirmed. The court is directed to prepare a new abstract of judgment reflecting these changes and to forward it to the Department of Corrections and Rehabilitation.

Rothschild, Acting P.J.

We concur: Chaney, J.

Johnson, J.

B211512 Kymm, et al. (Not for Publication)

v.

O'Loughlin, et al.

The order is affirmed. Respondents are awarded their costs on appeal.

Rothschild, Acting P.J.

We concur: Chaney, J.

Johnson, J.

### **DIVISION ONE (continued)**

B213824 Los Angeles County, D.C.F.S. (Not for Publication)

v.

D. V.

The orders of January 23, 2009, are affirmed.

Mallano, P.J.

We concur: Rothschild, J.

Johnson, J.

B213362 Los Angeles County, D.C.F.S. (Not for Publication)

V.

T.W.

That part of the December 3, 2008 order determining that the Indian Child Welfare Act does not apply is reversed and the matter is remanded to the juvenile court with directions to order the Los Angeles County Department of Children and Family Services to comply with the notice provisions of the Indian Child Welfare Act and to file all required documentation with the juvenile court. If, after proper notice, a tribe claims that M.M. is an Indian child, the juvenile court shall proceed in conformity with all provisions of the Indian Child Welfare Act. If, on the other hand, no response is received, or no tribe claims that M.M. is an Indian child, that part of the order determining that the Indian Child Welfare Act does not apply shall be reinstated. In all other respects the December 3, 2008 order is affirmed.

Mallano, P.J.

We concur: Rothschild, J.

Chaney, J.

### **DIVISION ONE (continued)**

B207445 People (Not for Publication)

v.

Alatorre

The judgment is affirmed and the trial court is ordered to prepare a corrected abstract of judgment that reflects 293 days' precommitment custody credit, comprised of 255 days' actual time and 38 days' conduct credit, and to forward a copy of the corrected abstract to the Department of Corrections and Rehabilitation.

Mallano, P.J.

We concur: Rothschild, J.

Chaney, J.

B208144 People (Not for Publication)

v.

Wade

The judgment is affirmed. Unless the trial court has already corrected the abstract of judgment with respect to count 5, it is ordered to issue an amended abstract reflecting that (1) count 5 was a conviction for a violation of Penal Code section 246.3, discharging a firearm in a grossly negligent manner, and (2) the length of the stayed term for the Penal Code section 12022.5, subdivision (a) enhancement for count 9 is 4 years.

Mallano, P.J.

We concur: Rothschild, J.

Chaney, J.

### **DIVISION ONE (continued)**

B212416 People (Not for Publication)

v.

V.V., a Person Coming Under the Juvenile Court Law.

The wardship order is affirmed.

Mallano, P.J.

We concur: Rothschild, J.

Johnson, J.

B212818 Los Angeles County, D.C.F.S.

v.

M.S., Sr. et al.

As we have previously held, the paternal grandparents have no standing in this matter (see opinion B210098 considered with B211444). Their appeal is dismissed and their motions denied on that ground. Father's brief on appeal fails to raise a claim of reversible error with respect to any orders appealed from. Therefore, we dismiss his appeal. Father's motions are denied as moot.

### **DIVISION TWO**

Court convened at 9:00 a.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman and Jaydee Hilburn, Deputy Clerks.

Each of the following:

B214253 In re D.S. (DCFS v. R.C.)

B210999 People v Magana

B207908 People v Dyer

B211684 People v Tuipulotu

B214140 DCFS v L.L.

B209677 People v Bustamante

B209314 People v Gatewood

# **DIVISION TWO (continued)**

Each of the following (continued):

B208895 People v Hardin

B212971 People v Brown

B211882 DCFS v S.L.

B208413 People v Gonzalez

B211737 People v Soto

B214149 In re B.B. (DCFS v A.B.)

Argument waived, cause submitted.

B213383 People

v.

Dorsey

Merits:

Argued by Beth Widmark, Deputy Attorney General for appellant and by Robin Bernstein-Lev, Deputy Public Defender for respondent. Cause submitted.

B212117 People

v.

Gallardo

Merits:

Argued by Blythe Leszkav, Deputy Attorney General for respondent and by Kevin Sheehy for appellant. Cause submitted.

B210334 Department of Transportation

v.

State Personnel Board

Kendrick III

Merits:

Argued by Robert Vidor for respondent and by Gerald James for real party in interest. Cause submitted.

# **DIVISION TWO (continued)**

B212928 Goodman

V.

Ballin, et al.

Merits:

Argued by Clifford Scherer for appellant and by Neal Goldstein and Robert Reback for respondents. Cause submitted.

B211940 Ye Olde King's Head

v.

Gray

Merits:

Argued by Yaron Tilles for respondent and by Fleming Gray for appellant. Cause submitted.

B194592 Erdman

v.

Dromy International Investment Corporation, et al.

Merits:

Argued by Steven Friedman for appellant Erdman and by Brendan Joy for appellant Dromy International. Cause submitted.

B209830 Mahgerefteh

v.

Yadegar

Merits:

Argued by Robert Keehn for appellant and by Dennis Golob for respondent. Cause submitted.

# **DIVISION TWO (continued)**

B201439 Pacesetter Inc., et al

v.

Biosense Webster, Inc.

Merits:

Argued by Todd Malynn for appellant Dowell and by Mark Neubauer for appellant Biosense Webster. Submission deferred, letter briefing ordered. Cause to be submitted after last letter brief is filed.

Court in recessed.

Court reconvened at 1:00 p.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman and Jaydee Hilburn, Deputy Clerks

B208853 People

V.

Oden

Merits:

Argued by Gerald Peters for appellant and by Gary Lieberman, Deputy Attorney General for respondent. Cause submitted.

B209326 Baker

v.

Wu

Merits:

Argued by David Ozeran for appellant and by Vincent Bennett for respondent. Cause submitted.

# **DIVISION TWO (continued)**

B215155 In re Bernard Jackson

on

Habeas Corpus

Merits:

Argued by Marilee Marshall for petitioner and by Kathleen Frey, Deputy Attorney General for respondent. Cause submitted.

Tittorney General for respondent. Cause submitte

B208243 Van Slyke

v.

California Unemployment Insurance Appeals Board

Merits:

Argued by Tyna Thall Orren for appellant and by Eric Bates for respondent.

Cause submitted.

B212145 Bus Riders Union, et al.

v.

Los Angeles County MTA

Merits:

Argued by David Pettit for appellants and by Brian Hoffstadt for

respondent. Cause submitted.

B204796 Mendoza, et al.

v.

Los Angeles Department of Water and Power

Merits:

Argued by David Jones for appellants and by Wendy Genz for respondent.

Cause submitted.

# **DIVISION TWO (continued)**

B209781 Nowcom Corporation

v.

Equifax Credit Information Services et al.

Merits:

Argued by John Holmes for appellant and by William Molinski for

respondents. Cause submitted.

B206530 Haroonian

v.

Harooni

Merits:

Argued by Cyrus Haroonian appellant in propria persona and by Leonard

Kirschen for respondent. Cause submitted.

Court adjourned.

### **DIVISION FOUR**

B197114 Dawson (Not for Publication)

V.

Ford Motor Company

The judgment is affirmed. Respondent(s) to recover costs.

Willhite, Acting P.J.

We concur: Manella, J.

Suzukawa, J.

### **DIVISION FOUR (continued)**

B211313 Daly (Not for Publication)

v.

Housing Authority of the City of Los Angeles, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Willhite, J.

We concur: Epstein, P.J.

Manella, J.

#### **DIVISION FIVE**

B210899 People (Not for Publication)

v.

Elizabeth Esqueda

The drug program fee is reversed. Upon remittitur issuance, the trial court is to make an ability to pay determination in light of all of defendant's financial circumstances including the total sums payable as a result of his conviction. If defendant does have the ability to pay, the drug program fee is to be reinstated with the additional assessments, the surcharge, and penalties. The judgment is modified to additionally impose the \$50 Health and Safety Code section 11372.5, subdivision (a) criminal laboratory analysis fee plus: a \$50 section 1464, subdivision (a)(1) penalty assessment; a \$35 Government Code section 76000, subdivision (a)(1) penalty assessment; a \$10 Government Code section 76000.5, subdivision (a)(1) penalty assessment; a \$10 state surcharge under Penal Code section 1465.7, subdivision (a); a \$15 Government Code section 70372, subdivision (a)(1) state court construction penalty; a \$5 deoxyribonucleic acid penalty pursuant to Government Code section 76104.6, subdivision (a)(1); and a \$5 deoxyribonucleic acid state-only penalty under Government Code section 76104.7, subdivision (a). The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Mosk, J.

Kriegler, J.

### **DIVISION FIVE (continued)**

B210927 People (Not for Publication)

v. L.S.

The matter is remanded to the juvenile court with directions to enter an order expressly declaring whether the violations of Penal Code sections 422 and 12010, subdivision (a)(1), are to treated as felonies or misdemeanors, the juvenile court shall recalculate appellant's maximum period of confinement. In all other respects, the judgment is affirmed.

Kriegler, J.

We concur: Armstrong, Acting P.J.

Mosk, J.

B217319 State of California Dept.of Transportation (Not for Publication)

v.

Superior Court, Los Angeles County (Kimberly Fairfax et al, r.p.i.)

The petition for writ of mandate is granted. The respondent court is directed to vacate its order of May 11, 2009, granting plaintiffs petition for leave to file an action, and to enter a new and different order denying that petition.

Kriegler, J.

We concur: Turner, P.J.

Mosk, J.

# **DIVISION FIVE (continued)**

B215178 Los Angeles County, D.C.F.S. (Not for Publication)

V.

I.M.

In re C.T., a Person Coming Under the Juvenile Court Law

The judgment is affirmed.

Kriegler, J.

We concur: Armstrong, Acting P.J.

Mosk, J.

B214562 Los Angeles County, D.C.F.S. (Not for Publication)

v.

M.M.

In re A.C., a Person Coming Under the Juvenile Court Law

The judgment is affirmed.

Kriegler, J.

We concur: Turner, P.J.

Armstrong, J.

B216308 Alec Zubarau

B218560 v.

City of Palmdale

Filed order consolidating above captioned appeals.

### **DIVISION SEVEN**

B211939 Chieh-Yuan Liao (Not for Publication)

v.

Benedict S. Liao

The order of the court is affirmed. Respondent is entitled to costs on appeal.

Woods, J.

We concur: Perluss, P.J.

Zelon, J.

B210123 Ricketts, et al., (Certified for Publication)

V.

McCormack, et al.,

The judgment is affirmed. The County is to recover its costs on appeal.

Perluss, P.J.

We concur: Zelon, J.

Jackson, J.

B205910 Carpenter (Not for Publication)

v.

Thagard

The order is affirmed. Thagard is to recover his costs on appeal.

Perluss, P.J.

We concur: Zelon, J.

Jackson, J.

# **DIVISION SEVEN (continued)**

B208858 Bernard Johnson (Not for Publication)

v.

James C. Jones Benjamin Robinson

The order is affirmed. Johnson is to recover his costs on appeal.

Perluss, P.J.

We concur: Woods, J.

Zelon, J.

B209513 People (Not for Publication)

v.

Benjamin

The judgment is affirmed.

Perluss, P.J.

We concur: Zelon, J.

Jackson, J.

B212593 People (Certified for Publication)

v.

Benhoor

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.

Zelon, J.

### **DIVISION SEVEN (continued)**

B205432 People

v.

Prado

Filed order denying petition for rehearing.

### **DIVISION EIGHT**

B213563 Los Angeles County, D.C.F.S. (Not for Publication)

v.

E. R. et al.,

In re A.R. et al., Persons Coming Under the Juvenile Court Law.

The dependency court's orders are affirmed.

Bigelow, J.

We concur: Flier, Acting P.J.

Bendix, J. (Assigned)

B212417 Los Angeles County, D.C.F.S. (Not for Publication)

v.

B.W.,

In re T.M., a Person Coming Under the Juvenile Court Law.

The dependency court's orders are affirmed.

Bigelow, J.

We concur: Flier, Acting P.J.

Bendix, J. (Assigned)

B206272 John Doe (WP)

v

The Roman Catholic Archbishop of Cashel & Emly

Filed order modifying opinion. (No change in the judgment)